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VERIZON PATENT MANAGEMENT GROUP 1320 North Court House Road 9th Floor ARLINGTON, VA 22201-2909			EXAMINER SOMERS, MARC S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/385,299

Applicant(s)

MOSLEH ET AL.

Examiner

MARC SOMERS

Art Unit

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 30-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 30-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. The amendments to the claims were received on 2/4/2009. Claims 1-17 and 30-54 are pending where claims 1-17 and 30-54 were previously presented and claims 18-29 were cancelled.

Drawings

2. The drawings were received on 2/4/2009. These drawings are acceptable. The applicant amended the drawings and provided arguments (see first two paragraphs on page 26) in order to overcome the objections to the drawings. In light of the arguments and the amendments to the drawings, the Examiner has withdrawn the objection to the drawings. In particular, the applicant argued that the reference characters 20 and 22 and 40 and 42 have been used to respectively designate a plurality of point of care terminals and network server computers.

Specification

3. The amendments to the specification were received on 2/4/2009. The amendments are acceptable. In light of the amendments to the specification that clarified the meaning of the reference characters as depicted in the drawings, the objection to the specification has been withdrawn.

Claim Objections

4. The amendment to the claims added a semi-colon appropriately to claim 32 thereby correcting the grammatical error in claim 32. In light of the amendments to the claims, the claim objections to claims 32 and 33 have been withdrawn.

35 USC § 101

5. The applicant amended the claims to overcome the previous rejection which stated that the claims were directed to non-statutory subject matter i.e. signals. By incorporating the word "device" after the word "storage" in the claims, the applicant has distinguished these claims from being directed towards signals such that storage device may secondary storage devices like hard disks, floppy disks, CD-ROMs, RAM, and ROM as discussed at lines 17-20 on page 27 of the applicant's specification.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231].

9. With regard to claim 7, Ballantyne teaches receiving a request from said portable access device to access a network server (see col 11, lines 24-27 and col 12, lines 35-37; the portable access devices attempts to access a network server);

and wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (see col 10, lines 10-21; col 12, lines 35-37; the portable access device attempts to establish a communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel).

10. Ballantyne does not explicitly teach identifying a communication profile associated with said network server; transmitting said communication profile to said portable access device; and establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server.

11. Cohn teaches identifying a communication profile associated with said network server; transmitting said communication profile to said portable access device (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

12. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

13. Ballantyne in view of Cohn teach establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server (see Ballantyne, col 6, lines 47-57 and col

12, lines 35-47; see Cohn, col 7, lines 59-66 and col 10, lines 1-6; a communication link is established between the portable access device and the network server based on a wide range of communication channels depending on where the portable access device is located and the communication profile associated with the user of the device).

14. With regard to claim 9, Ballantyne in view of Cohn teach accessing a central database; searching said central database for a communication profile associated with said network server; and retrieving said communication profile (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

15. With regard to claim 10, Ballantyne in view of Cohn teach configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said network server using one of said communication channels (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

16. With regard to claim 12, this claim is substantially similar to claim 7 and is rejected for the same reasons as claim 7 as discussed above. The differences between claim 7 and 12 are that claim 12 recites transmitting from said portable access device to a first network server, a request to access a second network server; receiving said request at said first network server (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37; the portable access devices attempts to access a network server).

17. With regard to claim 15, Ballantyne in view of Cohn teach accessing a central database; and retrieving a communication profile that corresponds to said second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

18. With regard to claim 16, Ballantyne in view of Cohn teach configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said second network server along said communication channel (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

19. With regard to claims 36, 38, 39, 41, 44, and 45, these claims are substantially similar to claims 7, 9, 10, 12, 15, 16 respectively and are rejected for the same reasons as discussed above. The only difference between claims 36, 38, 39, 41, 44, and 45 from claims 7, 9, 10, 12, 15, 16 is that claims 36, 38, 39, 41, 44, and 45 recite a computer-readable storage medium (see Ballantyne, col 6, lines 20-28; various computer readable storage medium can be used).

20. Claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231] and Ishizuka et al [US 5,805,666].

21. With regard to claim 1, Ballantyne teaches attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using communication channel that is selected by the portable access device, wherein the communication channel is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (see col 11, lines 24-27 and col 12, lines 35-37; the portable access device attempts to establish a communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel).

22. Ballantyne teaches that memory is used on the portable access device (see col 12, lines 60-63) but does not explicitly teach identifying a communication profile associated with a first network server; using communication channel that is selected by the portable access device based on the communication profile and a location of the portable access device with respect to the first network server, and capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

23. Cohn teaches identifying a communication profile associated with a first network server (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources).

24. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

25. Ballantyne in view of Cohn teach using communication channel that is selected by the portable access device based on the communication profile and a location of the portable access device with respect to the first network server (see Ballantyne, col 6, lines 47-57 and col 12, lines 35-47; see Cohn, col 7, lines 59-66 and col 10, lines 1-6; a communication link is established between the portable access device and the network server based on a wide range of communication channels depending on where the portable access device is located and the communication profile associated with the user of the device) and that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

26. Ishizuka teaches capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

27. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue

operation and be able to update the central server at a later time when a successful communication link has been established.

28. With regard to claim 2, Ballantyne in view of Cohn and Ishizuka teach searching an internal database for a communication profile associated with the first network server; and retrieving said communication profile from the internal database (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

29. With regard to claim 3, this claim is substantially similar to claim 2 and is rejected for the same reasons as discussed above. The only difference between claims 2 and 3 is that claim 3 recites transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37; communication is transferred over a wireless network to the PCS when the portable access device is trying to contact the ML network).

30. With regard to claim 5, Ballantyne in view of Cohn and Ishizuka teach configuring said portable access device to transmit using one of a plurality of communication channels, in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable

access device and said network server along said communication channel (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

31. With regard to claim 8, Ballantyne in view of Cohn teach all the limitations of claim 7 as discussed above.

32. Ballantyne in view of Cohn teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

33. Ishizuka teaches configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

34. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

35. With regard to claim 13, Ballantyne in view of Cohn teach all the limitations of claim 12 as discussed above.

36. Ballantyne in view of Cohn teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

37. Ishizuka teaches configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

38. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

39. With regard to claim 47, Ballantyne in view of Cohn and Ishizuka teach searching an internal database of the portable access device for the communication profile associated with the first network server (see Cohn, col 7, lines 59-66; a database is

searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages);

transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37; communication is transferred over a wireless network to the PCS when the portable access device is trying to contact the ML network);

and retrieving the communication profile server from the second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

40. With regard to claims 30-32, 34, 37, 42, and 49, these claims are substantially similar to claims 1-3, 5, 8, 13, and 47 respectively and are rejected for the same reasons as discussed above. The only difference between claims 30-32, 34, 37, 42, and 49 and claims 1-3, 5, 8, 13, and 47 is that claims 30-32, 34, 37, 42, and 49 recite a computer-readable storage medium (see Ballantyne, col 6, lines 20-28; various computer readable storage medium can be used).

41. Claims 11, 14, 17, 40, 43, 46, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231] and in further view of Spaur et al [US 5,732,074].

42. With regard to claim 11, Ballantyne in view of Cohn teach all the claim limitations of claim 7 as discussed above.

43. Ballantyne in view of Cohn teach transmitting a first request from the portable access device to a local wireless LAN transceiver; transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37 & 60-63; the portable access device tries to communicate with a network server through a local wireless LAN transceiver using IR technology or will transmit through a remote wireless LAN transceiver using standard wireless technology).

44. Ballantyne in view of Cohn do teach that a twisted pair and other phone connection means can be used to communicate to a network (see Ballantyne, Figure 1 and col 11, lines 41-45; phone/modem communication means can be used to facilitate communication of information to remote locations) but do not teach connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

45. Spaur teaches connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the

remote wireless transceiver (see col 2, lines 25-29 & 56-65 and col 6, lines 8-11; a portable device includes a cellular phone which is used to communicate with a remote environment).

46. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by incorporating phone interface/communication equipment/hardware in a portable device as taught by Spaur in order to relay critical life-saving information to and from the health information network when the portable device is out of range of the shorter ranged wireless communication schemes such as infra red communications.

47. With regard to claims 14, 17, 40, 43, and 46, these claims are substantially similar to claim 11 and are rejected for the same reasons as discussed above.

48. With regard to claim 51, this claim is substantially similar to claim 11 and is rejected for the same reasons as discussed above.

49. With regard to claim 52, Ballantyne in view of Cohn and Spaur teach determining, by the access device, whether or not the communication profile is stored locally by the access device; and establishing communication with a second server to retrieve the communication profile, if the communication profile is not stored locally (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and

retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

50. With regard to claim 53, this claim is substantially similar to claims 14 and 17 and is rejected for the same reasons as discussed above.

51. Claims 4, 6, 33, 35, 48, 50, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231] and Ishizuka et al [US 5,805,666] in further view of Spaur et al [US 5,732,074].

52. With regard to claim 4, Ballantyne in view of Cohn and Ishizuka teach all the claim limitations of claim 3 as discussed above.

53. Ballantyne in view of Cohn and Ishizuka teach transmitting a first request from the portable access device to a local wireless LAN transceiver; transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37 & 60-63; the portable access device tries to communicate with a network server through a local wireless LAN transceiver using IR technology or will transmit through a remote wireless LAN transceiver using standard wireless technology).

54. Ballantyne in view of Cohn and Ishizuka do teach that a twisted pair and other phone connection means can be used to communicate to a network (see Ballantyne, Figure 1 and col 11, lines 41-45; phone/modem communication means can be used to facilitate communication of information to remote locations) but do not teach connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

55. Spaur teaches connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver (see col 2, lines 25-29 & 56-65 and col 6, lines 8-11; a portable device includes a cellular phone which is used to communicate with a remote environment).

56. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn and Ishizuka by incorporating phone interface/communication equipment/hardware in a portable device as taught by Spaur in order to relay critical life-saving information to and from the health information network when the portable device is out of range of the shorter ranged wireless communication schemes such as infra red communications.

57. With regard to claims 6, 33, 35, 48, and 50, these claims are substantially similar to claim 4 and are rejected for the same reasons as discussed above.

58. With regard to claim 54, Ballantyne in view of Cohn and Spaur teach all the limitations of claim 51 as discussed above.

59. Ballantyne in view of Cohn and Spaur teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring the access device to operate in a local capture mode such that data received by the access device is stored in a memory located in the access device, if the third attempt fails.

60. Ishizuka teaches configuring the access device to operate in a local capture mode such that data received by the access device is stored in a memory located in the access device, if the third attempt fails (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

61. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn and Spaur by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

Response to Arguments

62. Applicant's arguments (see first two paragraphs on page 26) with respect to the objection to the drawings have been fully considered and are persuasive. The objection to the drawings has been withdrawn. The applicant amended the drawings and provided arguments (see first two paragraphs on page 26) in order to overcome the objections to the drawings. In light of the arguments and the amendments to the drawings, the Examiner has withdrawn the objection to the drawings. In particular, the applicant argued that the reference characters 20 and 22 and 40 and 42 have been used to respectively designate a plurality of point of care terminals and network server computers.

63. Applicant's arguments (see last paragraph on page 26) with respect to the objection to the specification have been fully considered and are persuasive. The objection to the specification has been withdrawn. In light of the amendments to the specification that clarified the meaning of the reference characters as depicted in the drawings, the objection to the specification has been withdrawn.

64. Applicant's arguments (see first paragraph on page 27) with respect to the claim objections have been fully considered and are persuasive. The claim objections of claims 32 and 33 have been withdrawn. The amendment to the claims added a semi-colon appropriately to claim 32 thereby correcting the grammatical error in claim 32. In

light of the amendments to the claims, the claim objections to claims 32 and 33 have been withdrawn.

65. Applicant's arguments (see second paragraph on page 27) with respect to the rejection of the claims under 35 USC 101 have been fully considered and are persuasive. The 35 USC 101 rejections of claims 30-46, 49, and 50 have been withdrawn. The applicant amended the claims to overcome the previous rejection which stated that the claims were directed to non-statutory subject matter i.e. signals. By incorporating the word "device" after the word "storage" in the claims, the applicant has distinguished these claims from being directed towards signals such that storage device may secondary storage devices like hard disks, floppy disks, CD-ROMs, RAM, and ROM as discussed at lines 17-20 on page 27 of the applicant's specification.

66. Applicant's arguments (see second to last paragraph on page 7 through the last paragraph on page 29) have been fully considered but they are not persuasive. The applicant argues that the Ballantyne reference does not disclose all the claim limitations including that a "communication channel" that is selected from the "group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and public switched telephone network (PSTN)" as recited in claim 7. The Examiner respectfully disagrees. The rejection in the previous Office Action did not rely on the definition of a "communication channel" as described by Ballantyne in the rejection and the mere fact that Ballantyne describes a "communication channel" that appears to be different from the

"communication channel" as described by the applicant's specification does not change the fact that Ballantyne teaches the claim limitations as described in the 35 USC 103(a) rejection above and also illustrated in the applicant's arguments in the last paragraph on page 29 where the applicant admits that Ballantyne uses a coaxial cable or wireline LAN as a communication medium/communication channel when sending and receiving data related to patients in a hospital.

67. Applicant's arguments (see first paragraph on page 30 through the first paragraph on page 31) have been fully considered but they are not persuasive. The applicant argues that Ballantyne and Cohn, whether individually or combined, fail to teach that the communication channel is selected based on the communication profile and on a location of the portable access device with respect to the network server. The Examiner respectfully disagrees. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Furthermore, as described above in the 35 USC 103(a) rejection of the claims, Ballantyne in view of Cohn teach the usage of the communication profile for the portable access device so that the communication system can identify the different communication media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the

central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

68. Applicant's arguments (see last two paragraphs on page 31) have been fully considered but they are not persuasive. The applicant argues that in view of the mischaracterizations of the references the previous Office Action did not properly determine the scope and content of the references nor properly ascertained the differences between the references and independent claim 7 and moreover that there is no teaching in the cited references to motivate one of ordinary skill in the art to combine the references and also failed to clearly articulate a reason why all of the features of claim 7 would have been obvious to one of ordinary skill in the art. The Examiner respectfully disagrees with the applicant's assessment of the cited prior art. As discussed above and in the previous Office Action, the cited prior art were not mischaracterized and a showing of the scope and content of the references were provided in the 35 USC 103(a) rejection of the claims as illustrated in the previous Office Action and in the 35 USC 103(a) rejection section above. With regard to the applicant's arguments that there is no teaching in the cited prior art to motivate one of ordinary skill in the art to combine the references, it is improper to rely on such a "rigid preventive rule that deny factfinders recourse to common sense" (see *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385) is not necessary for the determination of obviousness under 35 USC 103(a). With regard to the failure to clearly articulate a reason why all the features of the claim would have been obvious to one of ordinary skill

in the art, the Examiner directs the applicant's attention to the 35 USC 103(a) rejection section above where the Examiner articulated a rationale supporting the combination of the references.

69. Applicant's arguments (see first paragraph on page 32 through the third from last paragraph on page 33) have been fully considered but they are not persuasive. The applicant argues that the other independent claims are allowable for similar limitations as recited in independent claim 7 and also that the dependent claims are allowable for depending upon allowable independent claims. The Examiner respectfully disagrees. As discussed above, the rejection for claim 7 still stands therefore the rejection to the other independent claims and their respective dependent claims still stand.

70. Applicant's arguments (see last two paragraphs on page 33) with respect to potential duplicate claims have been fully considered and are persuasive. The applicant pointed out that although the claims have substantially similar claim bodies the claims were distinguishable since they further define two different steps, i.e. the step of transmitting and the step of establishing a communication link. In light of applicant's arguments, the Examiner has removed the notification about potential duplicate claims.

Conclusion

71. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC SOMERS whose telephone number is (571)270-3567. The examiner can normally be reached on 8 am - 4 pm EST Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trujillo can be reached on (571) 272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. S./
Examiner, Art Unit 2169
MS
3/24/2009

/James Trujillo/
Supervisory Patent Examiner, Art
Unit 2169